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4 UNITED STATES DISTRICT COURT
5 FOR THE NORTHERN DISTRICT OF CALIFORNIA
6 OAKLAND DIVISION
7

8 KIA CHEVALIER,
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10 Plaintiff,
11

12 vs.
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14 RAY & JOAN KROC CORPS.
15 COMMUNITY CENTER, SALVATION
16 ARMY RAILTON PLACE, 242 TURK
17 STREET (SF), 94102-3808,
18

19 Defendants.
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Case No: C 11-4891 SBA

ORDER

Docket 14.

29 Pro se Plaintiff Kia Chevalier (“Plaintiff”) filed the instant action on September 30,
30 2011, alleging various state and federal causes of action. Compl., Dkt. 1. On December
31 12, 2011, Defendant The Salvation Army (“Defendant”) filed a motion to dismiss under
32 Rule 12(b)(6) of the Federal Rules of Civil Procedure or, in the alternative, for a more
33 definite statement under Rule 12(e) of the Federal Rules of Civil Procedure, which it
34 noticed for hearing on April 3, 2012. Dkt. 14. Under Local Rule 7-3, any opposition or
35 statement of non-opposition was due no later than twenty-one (21) days before the hearing
36 date. As such, Plaintiff’s opposition was due by March 13, 2012. This Court’s Standing
37 Orders specifically warn that “failure of the opposing party to file a memorandum of points
38 and authorities in opposition to any motion shall constitute a consent to the granting of the
39 motion.” Civil Standing Orders at 5, Dkt. 11. Notwithstanding the requirements of Civil
40 Local Rule 7-3, and the Court’s warning, Plaintiff has filed nothing in response to
41 Defendant’s motion.

1 A district court may properly grant a motion for failure to file an opposition. See
2 Gwaduri v. I.N.S., 362 F.3d 1144, 1146-1147, n. 3 (9th Cir. 2004) (noting that courts have
3 the authority to grant unopposed motions); Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir.
4 1995) (failure to file an opposition in violation of a local rule is a proper ground to grant a
5 motion). Here, although Plaintiff's failure to file an opposition is a proper ground to grant
6 Defendant's motion, the Court, in light of Plaintiff's pro se status, will afford her the
7 opportunity to file a response to the motion by no later than April 13, 2012.

8 Accordingly, IT IS HEREBY ORDERED THAT:

9 1. Plaintiff shall file an opposition or statement of non-opposition to
10 Defendant's motion to dismiss or, in the alternative, for a more definite statement (Dkt. 14)
11 by no later than April 13, 2012. Upon the filing of Plaintiff's response to the motion, the
12 matter will be taken under submission without oral argument. The Court warns Plaintiff
13 that the failure to timely comply with this Order will result in dismissal of this action.

14 2. The hearing scheduled for April 3, 2012 is VACATED.

15 3. The Case Management Conference scheduled for April 3, 2012 is
16 CONTINUED to **June 7, 2012 at 3:00 p.m.** Prior to the date scheduled for the conference,
17 the parties shall meet and confer and prepare a joint Case Management Conference
18 Statement. Plaintiff is responsible for filing the joint statement no less than seven (7) days
19 prior to the conference date. The joint statement shall comply with the Standing Order for
20 All Judges of the Northern District of California and the Standing Orders of this Court.
21 Plaintiff is responsible for setting up the conference call, and on the specified date and time,
22 shall call (510) 637-3559 with all parties on the line.

23 4. This Order terminates Docket 14.

24 IT IS SO ORDERED

25 Dated: 3/28/12

26 
27 SAUNDRA BROWN ARMSTRONG
28 United States District Judge

1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA

4 CHEVALIER et al,

5
6 Plaintiff,

7 v.

8 RAY & JOAN KROC CORPS. COMMUNITY
9 CENTER et al,

10 Defendant.
11 _____/

12 Case Number: CV11-04891 SBA

13 **CERTIFICATE OF SERVICE**

14
15 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District
16 Court, Northern District of California.

17 That on March 29, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said
18 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing
19 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle
20 located in the Clerk's office.

21 Kia Chevalier
22 Post Office Box 55641
23 Hayward, CA 94545-0641

24 Dated: March 29, 2012

25 Richard W. Wieking, Clerk
26 By: Lisa Clark, Deputy Clerk
27
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